

IN THE CIRCUIT COURT FOR SULLIVAN COUNTY, TENNESSEE

AMY VANCE,

Plaintiff,

v.

NATIONWIDE INSURANCE COMPANY,

Defendant.

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Case No. C14544 (C)

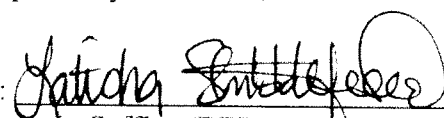
JURY DEMANDED

NOTICE OF FILING NOTICE OF REMOVAL

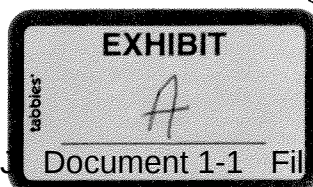
TO: Tommy Kerns
Sullivan County Circuit Court Clerk
Sullivan County Justice Center
140 Blountville Bypass
P.O. Box 587
Blountville, TN 37717

Please take notice that on June 7, 2013, pursuant to 28 U.S.C. § 1446, Defendant, Nationwide Property and Casualty Insurance Company incorrectly named as Nationwide Insurance Company ("Defendant"), filed a Notice of Removal of this action from the Circuit Court for Sullivan County, Tennessee, to the United States District Court for the Eastern District of Tennessee. A copy of the Notice of Removal is attached hereto as Exhibit A.

Respectfully submitted,

By: 
Kenny L. Saffles (BPR No. 023870)
Latisha J. Stubblefield (BPR No. 27566)
BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.
265 Brookview Centre Way, Suite 600
Knoxville, Tennessee 37919
(865) 549-7000

Counsel for Defendant



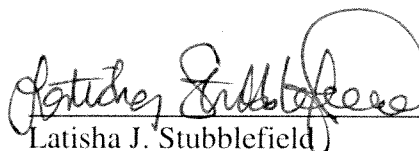
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing **Notice of Filing Notice of Removal** has been served upon the following persons by delivering same to the offices of said counsel, or by faxing and/or mailing same to the offices of said counsel by United States Mail with sufficient postage thereon to carry the same to its destination.

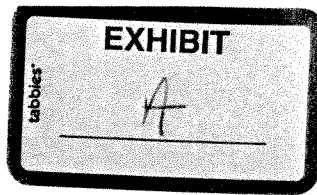
Luther H. Incenhour, Jr.
INCENHOUR & EDENS
900 Anderson Street
Bristol, TN 37620

Tommy Kerns
Sullivan County Circuit Court Clerk
Sullivan County Justice Center
Blountville, TN 37717

This 7th day of June, 2013.



Latisha J. Stubblefield



IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE AT GREENEVILLE

AMY VANCE,)	
)	
Plaintiff,)	Case No.
)	
v.)	Removed from the Circuit Court
)	for Sullivan County, Tennessee
NATIONWIDE PROPERTY AND CASUALTY)	No. C14544 (C)
INSURANCE COMPANY,)	
)	JURY DEMANDED
Defendant.)	

NOTICE OF REMOVAL

Defendant, Nationwide Property and Casualty Insurance Company ("Defendant"), incorrectly named in the Complaint as Nationwide Insurance Company, files this Notice to remove to this Court an action brought against it and currently pending in the Circuit Court for Sullivan County, Tennessee, bearing Case No.C14544 (C), and with respect thereto would show this Court as follows:

I.

The above-styled cause was commenced in the Circuit Court for Sullivan County, Tennessee, Case No. C14544 (C) , by virtue of a Complaint filed by Plaintiff on April 30, 2013 against Defendant. Defendant was served with process via the Tennessee Department of Commerce and Insurance on May 8, 2013.

The Complaint alleges that Defendant breached its insurance contract and acted in bad faith for failure to pay pursuant to the terms of the insurance contract with Plaintiff Amy Vance. ("Plaintiff"). Plaintiff seeks \$70,000.00 in compensatory damages and an additional penalty for alleged bad faith by Defendant. A jury was demanded by Plaintiff.

Pursuant to 28 U.S.C. § 1446(a), a copy of the aforementioned Complaint, along with a copy of the Summons, such Complaint and Summons constituting all process, pleadings and

orders served upon Defendant in this action, are attached hereto as Exhibit A and made a part of this Notice by reference. By removing this action, Defendant is not waiving any defenses available under Fed. R. Civ. P. 12.

II.

The time period within which Defendant is required to file this Notice of Removal pursuant to 28 U.S.C. § 1446 has not yet expired. Since May 8, 2013, the date on which Defendant, via the Tennessee Department of Commerce and Insurance, was served with the Summons and a copy of the Complaint, there have been no other proceedings in this case in the Circuit Court for Sullivan County, Tennessee.

III.

This action is one of a civil nature for damages claimed as a result of allegations of breach of an insurance contract and bad faith by Defendant. Plaintiff's action is civil in nature, and this Court has original jurisdiction over Plaintiff's action under the provisions of 28 U.S.C. § 1332. Specifically, this action involves citizens from different states and the amount in controversy exceeds the sum of \$75,000. In Plaintiff's Complaint, she has pled actual damages in the amount of \$70,000.00 plus "an additional penalty for acting in bad faith as provided in T.C.A. § 56-7-105, a 25% penalty is imposed where it is proven that an insurer has acted in bad faith in failing to pay amounts owed under an insurance policy. "It is settled that the statutory penalty and a statutory attorney's fee can be considered in determining whether the jurisdictional amount is met." *Clark v. National Travelers Life Insurance Company*, 518 F. 2d 1167, 1168-69 (6th Cir. 1975). Combining Plaintiff's allegation of \$70,000.0 in actual damages, plus the 25% penalty under T.C.A. § 56-7-105, Plaintiff's damages, as alleged, exceed the jurisdictional amount of \$75,000.00. Therefore, this action arises under federal law, and this Court has original jurisdiction.

IV.

The requisite diversity of citizenship exists, as provided in 28 U.S.C. § 1332. Plaintiff, upon information and belief, is a resident of Sullivan County Tennessee. Defendant is a foreign corporation organized under the laws of the State of Ohio, with its principal place of business in Ohio. As set forth above, the jurisdictional amount in controversy exceeds \$75,000.

V.

Defendant Nationwide Property and Casualty Insurance Company is the sole defendant in this action, and, therefore, no other parties need to join in this Notice of Removal.

VI.

Defendant is contemporaneously filing a Notice of Filing of Notice of Removal, pursuant to 28 U.S.C. § 1446(d), with the Clerk for the Circuit Court for Sullivan County, and is contemporaneously serving both Notices on Plaintiff's counsel.

VII.

The allegations of this Notice are true and correct to the best of Defendant's knowledge and within the jurisdiction of the United States District Court for the Eastern District of Tennessee, and this cause of action is removable to the United States District Court for the Eastern District of Tennessee.

WHEREFORE, Defendant Nationwide Property and Casualty Insurance Company files this Notice for the purpose of removing this action from the Circuit Court for Sullivan County, Tennessee, to the United States District Court for the Eastern District of Tennessee.

Respectfully submitted,

By: s/ Latisha J. Stubblefield
Kenny L. Saffles (BPR No. 023870)
Latisha J. Stubblefield (BPR No. 27566)
BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.
265 Brookview Centre Way, Suite 600
Knoxville, Tennessee 37919
(865) 549-7000

Counsel for Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing **Notice of Removal** has been filed electronically and has been served upon the following parties in interest herein by delivering same to the offices of said parties in interest, or by mailing same to the offices of said parties in interest by United States Mail with sufficient postage thereon to carry the same to its destination.

Luther H. Incenhour, Jr.
INCENHOUR & EDENS
900 Anderson Street
Bristol, TN 37620

Tommy Kerns
Sullivan County Circuit Court Clerk
Sullivan County Justice Center
140 Blountville Bypass
P.O. Box 587
Blountville, TN 37717

This 7th day of June, 2013.

s/ Latisha J. Stubblefield
Latisha J. Stubblefield

FILED

IN THE LAW COURT FOR SULLIVAN COUNTY

AT BRISTOL, TENNESSEE 2013 APR 30 PM 4:29

AMY VANCE,
Plaintiff,

TOMMY R. KERNS, *TRC* D.C.
CIRCUIT COURT CLERK
SULLIVAN CO., TN

Vs.

Civil Action No. C14544(C)

NATIONWIDE INSURANCE COMPANY,
Defendant.

COMPLAINT

Comes the Plaintiff, Amy Vance, and would respectfully show unto the Court as follows:

1. That she is a citizen and resident of Sullivan County, Tennessee and was so at the time of the incident hereinafter occurred. She was a resident at 404 Cherokee Street, Bluff City, Tennessee. She was renting the property from her mother, Daphne Lowry and had rented the property for approximately two years prior to August 3, 2012. Plaintiff had a renters or tenants policy with the Defendant, said policy bearing no. 63 41 HO 428918. The Plaintiff had maintained the insurance with the Defendant since she moved into the property approximately two years prior to the incident which is hereinafter set out. The policy insured the Plaintiff for loss of personal property.

2. That the Defendant, Nationwide Insurance Company, is a corporation domesticated and doing business in the state of Tennessee.

3. On the afternoon of August 3, 2012 a severe thunder and lightning storm occurred in the immediate area of where the Plaintiff was residing. Lightning struck two utility transformers on poles adjoining the property and a bolt of lightning struck the property in question causing the foundation wall of the residence to collapse. As a result of this lightning strike, the home in which the Plaintiff was residing was rendered unusable. As a result of this

PREPARED BY:

**Icenhour
& Edens**

Attorneys at Law
BRISTOL, TENNESSEE

lightning strike, the Plaintiff's household furniture and personal belongings were damaged or destroyed.

5. The Defendant had insured the Plaintiff against damages to her personal property and now refuses to pay pursuant to the terms of the policy. The Plaintiff avers that the Defendant acted in bad faith and should be penalized pursuant to T.C.A 56-7-105.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff prays judgment against the Defendant in the amount of \$70,000.00 and an additional penalty for acting in bad faith as provided in T.C.A 56-7-105. The Plaintiff also asks that a jury be impaneled to try the issues in this case.

AMY VANCE

By:


LUTHER H. ICENHOUR, JR.


LUTHER H. ICENHOUR, JR.

Attorney for the Plaintiff
ICENHOUR & EDENS
900 Anderson Street
Bristol, Tennessee 37620
(423) 968-3155
TN BPR NO. 1467

PREPARED BY:

*Icenhour
& Edens*

Attorneys at Law
BRISTOL, TENNESSEE

COST BOND



We acknowledge ourselves as sureties in this cause not to exceed **ONE THOUSAND DOLLARS (\$1,000.00)**.

ICENHOUR & EDENS


LUTHER H. ICENHOUR, JR.

CERTIFIED

2013 MAY -1 A 10:30



CIRCUIT COURT CLERK

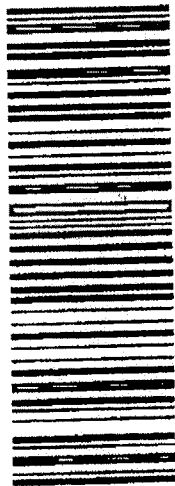
PREPARED BY:

***Icenhour
& Edens***

Attorneys at Law
BRISTOL, TENNESSEE

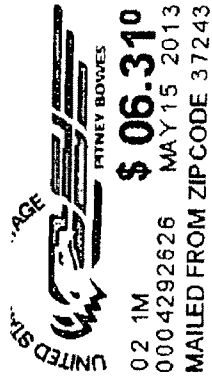
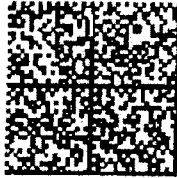
State of Tennessee
Dept. of Commerce & Insurance
Service of Process
500 James Robertson Parkway
Nashville, TN 37243

CERTIFIED MAIL™



7012 1010 0002 9225 0600

FIRST CLASS



7012 1010 0002 9225 0600 05/08/2013
NATIONWIDE MUTUAL INSURANCE COMPANY
800 S. GAY STREET, STE 2021, % C T CORP.
KNOXVILLE, TN 37929-9710

379299710 0002



**Service of Process
Transmittal**

05/17/2013

CT Log Number 522741971

TO: Carrie Troesch
Nationwide Mutual Insurance Company
One Nationwide Plaza, 1-30-401
Columbus, OH 43215-2220

RE: Process Served in Tennessee

FOR: Nationwide Mutual Insurance Company (Domestic State: OH)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Amy Vance, Pltf. vs. Nationwide Insurance Company, Dft. // To: Nationwide Mutual Insurance Company

DOCUMENT(S) SERVED: Letter, Summons, Notice, Complaint, Cost Bond

COURT/AGENCY: Sullivan County Law Court at Bristol, TN
Case # C14544C

NATURE OF ACTION: Insurance Litigation - Policy benefits claimed for this lightning strike the home in which the plaintiff was residing was rendered unusable

ON WHOM PROCESS WAS SERVED: C T Corporation System, Knoxville, TN

DATE AND HOUR OF SERVICE: By Certified Mail on 05/17/2013 postmarked on 05/15/2013

JURISDICTION SERVED : Tennessee

APPEARANCE OR ANSWER DUE: Within 30 days after service of the summons upon you, exclusive of the day of service

ATTORNEY(S) / SENDER(S): Luther H. Icenhour, Jr.
Icenhour & Edens.
900 Anderson Street
Bristol, TN 37620
423-968-3155

REMARKS: Tennessee Department of Commerce and Insurance accepted service of documents on May 8, 2013

ACTION ITEMS: CT has retained the current log, Retain Date: 05/17/2013, Expected Purge Date: 05/22/2013
Image SOP

SIGNED: C T Corporation System
PER: Amy McLaren
ADDRESS: 800 S. Gay Street
Suite 2021
Knoxville, TN 37929-9710
TELEPHONE: 800-592-9023

Page 1 of 1 / VJ

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

**STATE OF TENNESSEE
Department of Commerce and Insurance
500 James Robertson Parkway
Nashville, TN 37243-1131
PH - 615.532.5260, FX - 615.532.2788
Jerald.E.Gilbert@tn.gov**

May 8, 2013

Nationwide Mutual Insurance Company
800 S. Gay Street, Ste 2021, % C T Corp.
Knoxville, TN 37929-9710
NAIC # 23787

Certified Mail
Return Receipt Requested
7012 1010 0002 9225 0600
Cashier # 8986

Re: Amy Vance V. Nationwide Mutual Insurance Company

Docket # C14544 (C)

To Whom It May Concern:

Pursuant to Tennessee Code Annotated § 56-2-504 or § 56-2-506, the Department of Commerce and Insurance was served May 8, 2013, on your behalf in connection with the above-styled proceeding. Documentation relating to the subject is herein enclosed.

Jerald E. Gilbert
Designated Agent
Service of Process

Enclosures

cc: Law Court Clerk
Sullivan County
801 Anderson Street, Room 131
Bristol, Tn 37620

**STATE OF TENNESSEE
SULLIVAN COUNTY
S U M M O N S**

Amy Vance

LAW COURT, PART (I) (II)
AT ~~(BLOUNTVILLE)~~ (BRISTOL)
(KINGSBURY), TENNESSEE

CIVIL ACTION NO. C14544 (C)

VS
Nationwide Insurance Company
Serve upon: Commissioner of Insurance

NOTICE

TO THE DEFENDANT(S):

Tennessee law provides a four thousand dollar (\$4,000) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary, however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

TO THE ABOVE NAMED DEFENDANT (S):

You are hereby summoned and required to serve upon Luther H. Icenhour, Jr.

plaintiff's attorney, whose address is 900 Anderson Street, Bristol, TN 37620

an answer to the complaint which

is herewith served upon you within thirty (30) days after service of the summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Tested this _____ day of _____, Issued this 1st day of May, 2013.

TOMMY R. KERNS

By: [Signature]

Deputy Clerk

Received this _____ day of _____, Deputy Sheriff

RETURN

I certify and return that I:

☐ served this summons together with the complaint as follows:

☐ failed to serve this summons within thirty (90) days after its issuance because:

Date _____

Deputy Sheriff

☐ accept service

I, _____, hereby accept service of process in this case as fully and in all respects, as though I had been personally served by a Deputy Sheriff of Sullivan County, and I acknowledge that I received a copy of the summons and complaint in this case.

This the _____ day of _____,

Defendant

NOTICE

In accordance with the Americans with Disabilities Act (ADA) the Tennessee (TN) Judicial Branch does not permit discrimination against anyone on the basis of physical or mental disability in accessing its judicial programs. If necessary, reasonable modifications will be provided for qualified persons with disabilities to access programs, services or activities.

If you require a modification to access a judicial program and/or have special needs because of a qualified disability, you must submit a written Request for Modification to the Local Judicial Program ADA Coordinator listed below at least five (5) business days prior to the date of the judicial program, if possible. A form is available from the local Judicial Program ADA Coordinator or from the TN Judicial Program ADA Coordinator at <http://www.tsc.state.tn.us>.

If you need assistance or further information or have questions, please contact either of the following judicial ADA coordinators:

LOCAL – Tommy Kerns
Circuit Court Clerk
Sullivan County Justice Center
Blountville, TN 37617
(423) 279-2752

TN – Julie K. Taylor
511 Union Street, Suite 600
Nashville, TN 37219
(615) 741-2687 or
(800) 448-7970
adacoordinator@tscmail.state.tn.us

The TN Judicial Branch ADA Policy Regarding Access to Judicial Programs may be found online at www.tsc.state.tn.us.